

OFFICIAL COPY

Fresno, California April 19, 2005

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

| | | |
|----------|------------------|--------------------------|
| Present: | Tom Boyajian | Councilmember |
| | Brian Calhoun | Councilmember |
| | Jerry Duncan | Acting Council President |
| | Henry Perea | Councilmember |
| | Cynthia Sterling | Councilmember |
| | Larry Westerlund | Councilmember |
| | Mike Dages | Council President |

Andy Souza, City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

CSUF students Jennifer Blohm and Leah Clausine gave the invocation and signed, and President Dages led the Pledge of Allegiance.

PROCLAMATION OF ROBERT AND SHIRLEY HARRIS/JACK AND JILL EDUCATION CENTER DAY - PRESIDENT DAGES

PROCLAMATION OF EARTH WEEK

The above proclamations were read and presented.

Add-on: PRESENTATION TO FIRE CHIEF BRUEGMAN FROM COUNCILMEMBER DUNCAN

Councilmember Duncan presented his personal monetary contribution to Chief Bruegman for the Fresno Fire Chief's Foundation, a foundation the Chief started to promote community and educational outreach, and Chief Bruegman spoke to the foundation and their first upcoming event.

President Dages recognized Code Enforcement Manager Villa in the audience and noting he would be leaving city employment at the end of the week, and along with City Manager Souza and Councilmember Sterling, thanked him for his professionalism and service to the city organization and the community, stated he would be missed, and wished him well.

APPROVE MINUTES OF APRIL 12, 2005:

On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the minutes of April 12, 2005, approved, as amended, on Page 145-127, first item under "Council Member Reports and Comments", changing the title to: *"Request to staff to aggressively monitor the Monte Cristo Restaurant at Friant Road and Ft. Washington due to CUP violations - Councilmember Duncan"*.

Upon question of Councilmember Westerlund as to whether the motion for Item 1-J, Page 145-131, was broader, the taped recording of the proceedings was reviewed and it was determined the motion was correct.

APPROVE JOINT POWERS FINANCING AUTHORITY (JPFA) MINUTES OF APRIL 12, 2005:

145-141**4/19/05**

On motion of Member Duncan, seconded by Member Boyajian, duly carried, RESOLVED, the JPFA minutes of April 12, 2005, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

CHAFFEE ZOO - COUNCILMEMBER WESTERLUND

Councilmember Westerlund advised he took his visiting brother and family to the zoo and spoke to their great experience and encouraged everyone to visit the zoo stating it was a great amenity.

MEETING WITH THE COMMUNITY INVESTMENT SUB-COMMITTEE AND COUNCILMEMBER PEREA'S OFFICE - COUNCILMEMBER STERLING

Councilmember Sterling stated it came to their attention that the applications that are normally distributed on April 1st had not yet been sent out and advised the committee was requesting an update from the administration on how much money would be available and when the process could begin, with City Manager Souza stating a tray memo on the status of the program would go out to Council this week.

(1) COMMENDATION TO PUBLIC WORKS FOR ADDRESSING KEARNEY BOULEVARD LANDSCAPING AND CLEAN-UP, AND (2) REQUEST TO COUNCIL TO PARTICIPATE IN THE INTRODUCTION AND WELCOME OF THE CHINA DELEGATION SCHEDULED FOR 9:15 A.M. - COUNCILMEMBER STERLING

Commendation and request made. Relative to #1, City Manager Souza stated the public utilities department also needed to be thanked as they invested their staff to make sure Kearney got cleaned up and added three departments were attacking that issue and they were still working collaboratively, with Councilmember Sterling extending her thanks to all involved staff. Councilmember Boyajian also extended his thanks stating Kearney Boulevard looked the best it has ever looked.

CITY COUNCIL AND TV MEDIA BASEBALL TOURNAMENT - COUNCILMEMBER BOYAJIAN

Councilmember Boyajian advised of the tournament and stated information would be sent out.

COMMENDATION AND THANK YOU TO BEN JEW, ARMANDO RODRIGUEZ, AND EVERYONE INVOLVED IN THE YEARLY CHINESE CELEBRATION - COUNCILMEMBER BOYAJIAN

Commendation made.

(1) COMMENDATION AND THANK YOU TO JOHN LITRELL AND CREW FOR GRAFFITI CLEAN-UP ON KINGS CANYON AND ARGYLE, AND (2) KEN SHOCKLEY FOR PROVIDING INFORMATION AND CONTINUOUS UPDATES ON THE INTERNAL REVENUE SERVICE CENTER PROBLEM OVER THE WEEKEND - PRESIDENT DAGES

Commendation made.

REQUEST TO STAFF TO (1) ADDRESS THE WEED PROBLEM ON HUNTINGTON BOULEVARD, AND (2) REPLACE POSTS THAT WERE REMOVED ON THE MCKENZIE TRAIL BETWEEN CLOVIS AND PEACH AVENUES - PRESIDENT DAGES

Requests made. Relative to the McKenzie trail President Dages stated the posts needed to be put back in as people were driving on the trail.

APPROVE AGENDA:

(10:35 A.M.) TEFRA HEARING AS REQUIRED THE INTERNAL REVENUE CODE OF 1986 TO CONSIDER THE PROPOSED ISSUANCE OF INDUSTRIAL DEVELOPMENT BONDS BY THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY FOR THE PURPOSE OF FINANCING THE CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF TEMPERING AND DRIP-DRY ROOMS OWNED AND OPERATED BY BUSSETO FOODS, INC., AND CERTAIN OTHER MATTERS RELATED THERETO

145-142

4/19/05

Councilmember Sterling advised Busseto Foods was requesting the hearing be continued to May 3rd, with City Attorney Montoy recommending since this was a Tefra hearing that the hearing be opened at the scheduled time and then continued.

(4:30 P.M.) CONTINUED HEARING TO CONSIDER THE PLANNING COMMISSION'S DECISION REGARDING CUP APPLICATION NO. C-02-226 AND ENVIRONMENTAL FINDINGS, FILED BY WILKINS ENTERPRISES *(Request by Applicant to continue to May 3, 2005, at 4:30 p.m.)*

Continued as requested.

On motion of Councilmember Sterling, seconded by Councilmember Perea, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

| | |
|----------|---|
| Ayes : | Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages |
| Noes : | None |
| Absent : | None |

ADOPT CONSENT CALENDAR:

Barbara Hunt, 2475 S. Walnut, expressed concerns with Items **1-F** and **1-G** stating further discussion with LAFCO was needed, and expressed concern with trucks on Item **1-M**.

Councilmember Duncan pulled Item **1-J** for discussion, Councilmember Boyajian registered a "NO" vote on Items **1-F** and **1-G** and after brief discussion pulled Item **1-M**, and Councilmember Westerlund pulled Item **1-F** for discussion.

City Clerk Klisch advised the resolution associated with Item **1-G** incorrectly listed *Dakota-Hayes No. 2* when it should have been *Copper-Maple No. 3* as correctly listed in the title. So noted and corrected.

(1-A) AUTHORIZE A FOUR-MONTH EXTENSION OF THE INTERIM CONTRACT WITH ALLSTAR FIRE EQUIPMENT, INC. OF HAYWARD, CA, FOR STRUCTURAL FIREFIGHTING PROTECTIVE GARMENTS (TURNOUTS) THROUGH AUGUST 31, 2005, UNTIL THE CURRENT BID PROCESS IS COMPLETED AND A CONTRACT AWARD IS MADE

(1-B) AWARD A ONE-YEAR REQUIREMENTS CONTRACT WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS TO NEPTUNE TECHNOLOGY GROUP, INC., OF TALLAHASSEE, AL, IN THE AMOUNT OF \$254,024.05 FOR 3/4" - 2" WATER METERS

(1-C) APPROVE THE REQUEST FROM DL CONSTRUCTION TO SUBSTITUTE SUBCONTRACTOR SAN JOAQUIN GLASS WITH VALLEY GLASS FOR THE GLAZING PORTION OF THE FRESNO YOSEMITE INTERNATIONAL AIRPORT TICKET LOBBY REHABILITATION PROJECT

(1-D) APPROVE AN AGREEMENT WITH THE COUNTY OF FRESNO FOR THE INSTALLATION OF THE LAO HMONG AMERICAN WAR MEMORIAL IN COURTHOUSE PARK, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

(1-E) APPROVE THE ACQUISITION OF A WATER MAIN EASEMENT FROM APN 433-533-18 OWNED BY GENE C. AND ARCELIE JOSUE FOR THE PRICE OF \$150.00, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO SIGN THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY, OTHER RELATED DOCUMENTS AS NECESSARY, AND ACCEPT THE DEED OF EASEMENT FOR AN UNDERGROUND WATER MAIN

(1-H) AUTHORIZE THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE COUNTY OF FRESNO TO PROVIDE SUPPORT FOR THE COUNTY'S MUNICIPAL PROBATION OFFICER PROGRAM BY WAY OF FUNDING A DEPUTY PROBATION OFFICER TO SUPERVISE COMMUNITY CLEAN-UP WORK CREWS COMPOSED OF JUVENILE OFFENDERS SENTENCED TO COMMUNITY SERVICE WORK

(1-I) APPROVE THE APPOINTMENT OF GENERAL SERVICES DIRECTOR KEN NERLAND AS A MANAGEMENT MEMBER OF THE FIRE AND POLICE RETIREMENT SYSTEM AND THE EMPLOYEES RETIREMENT SYSTEM

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4/19/05

(1-K) CONSIDER THE ALIGNMENT AND WIDTH OF PROPOSED PUBLIC STREETS FOR A 24-LOT INDUSTRIAL PARCEL MAP FOR PROPERTY LOCATED ON THE SOUTH SIDE OF E. SHIELDS BETWEEN N. BUSINESS PARK AND N. SUNNYSIDE AVENUES

1. RESOLUTION NO. 2005-129 - APPROVING THE STREET ALIGNMENT AND WIDTH OF A PUBLIC STREET WITHIN THE BOUNDARIES OF VESTING TENTATIVE PARCEL MAP NO. 2004-35

(1-L) CONSIDER THE ALIGNMENT AND WIDTH OF PROPOSED PUBLIC STREETS FOR A 33-LOT INDUSTRIAL PARCEL MAP FOR PROPERTY LOCATED ON THE SOUTHEAST CORNER OF N. CHESTNUT AVENUE DIAGONAL AND N. WINERY AVENUE

1. RESOLUTION NO. 2005-130 - APPROVING THE STREET ALIGNMENT AND WIDTH OF TWO PUBLIC STREETS WITHIN THE BOUNDARIES OF VESTING TENTATIVE PARCEL MAP NO. 2004-24

(2 - 0) On motion of Councilmember Boyajian, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

(1-G) CONSIDER THE PROPOSED COPPER-MAPLE NO. 3 REORGANIZATION AND APPROVAL TO FILE WITH LAFCO FOR THE DETACHMENT OF CERTAIN TERRITORY FROM THE FRESNO COUNTY FIRE PROTECTION DISTRICT AND THE KINGS RIVER CONSERVATION DISTRICT AND ANNEXATION OF THE SAME TERRITORY TO THE CITY OF FRESNO (LOCATED IN DISTRICT 6)

1. AFFIRM THE CITY COUNCIL ACTION OF 5/11/04, ADOPTING E.A. NO. R-03-68/T-5261, DATED 2/20/04, FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER EIR

2. RESOLUTION NO. 2005-128 - APPLYING TO LAFCO IN THE MATTER OF THE PROPOSED COPPER-MAPLE NO. 3 REORGANIZATION

On motion of Councilmember Boyajian, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Item **1-G** hereby adopted, by the following vote:

Ayes : Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : Boyajian
 Absent : None

(9:15 A.M.) INTRODUCTION OF DELEGATION FROM CHINA

The delegation was introduced and welcomed by the Council and City Manager and gifts were presented.

(9:00 A.M.) PUBLIC COMMENT PERIOD - UNSCHEDULED COMMUNICATION:

APPEARANCE BY BARBARA HUNT REGARDING HINTON COMMUNITY CENTER CONCERNS AND ILLEGALITIES

Appearance made.

APPEARANCE BY REVEREND CALDWELL EXPRESSING CONCERN AND OPPOSITION TO A COMMUNITY AWARENESS ANNOUNCEMENT RELATIVE TO PROPOSED DISCONTINUANCE OF FREE PROGRAMS, SERVICES AND ACTIVITIES AND CHANGE IN ADMINISTRATIVE STAFF RESPONSIBILITIES AT THE HINTON COMMUNITY CENTER

Appearance made and a petition was submitted by Thelma Nelson containing names of those also in opposition, on file in the office of the city clerk. Councilmember Sterling advised she spoke with the Mayor and City Manager about this as it was of grave concern to her also, clarified the Juneteenth festivity would not be cancelled, and thanked those present for their concern and stated as the district's representative she would stay on top of the matter.

145-144

4/19/05

(3-A) DISCUSSION ON THE DISPOSITION OF IN-LIEU FEES IN THE FY 2006 BUDGET - COUNCILMEMBERS CALHOUN AND DUNCAN

Councilmembers Calhoun and Duncan reviewed the background of the issue, the legal action the city is involved in, and the \$8.5 million in fees that are in jeopardy, all as contained in the their memo to Council as submitted, stated it was their belief the in-lieu fees were legal and the city would prevail in the end--acknowledging there was no guarantee, stated the city's ability to provide critical services would be severely impacted if the city were not to prevail, and spoke to the need to prepare and questioned what the contingency plan was and if this was addressed in the upcoming budget. City Manager Souza assured Council the Mayor and the administration were taking this matter very seriously and clarified the Mayor's budget would address the matter and added it would prepare the city to move through the storm just as it did with Hurricane Sacramento and explained.

Barbara Hunt, 2475 S. Walnut, stated the in-lieu fees were illegal and urged the city to return the money to the people.

Councilmember Westerlund concurred this was a serious issue and advised he spoke with the administration about his concerns and stated contingency plans would be in place. Councilmember Boyajian spoke to his hope that the administration would look at other revenue streams and innovative ways to put money in the general fund stating one of Fresno's biggest problems was the lack of a diverse tax base and explained. Mr. Souza and City Attorney Montoy responded to comments and questions of President Dages and/or clarified issues relative to his impression that the money collected was going into a reserve account, the court order, if the city would be in violation if the funds were spent and the Superior Court does not hear the matter, and if it would be prudent to have the money stay in utilities. Councilmember Duncan stated he was glad to hear the city manager's response and thanked him for the explanation **(3 - 0)**.

(10:00 A.M.) BILL NO. B-40 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO PERMISSIBLE CARD ROOM GAMES - COUNCILMEMBER STERLING

Councilmember Sterling gave an overview of the issue clarifying this amendment would eliminate the need to amend the ordinance every time a card room makes a request to run a game already allowed by the Department of Justice, all as contained in the staff report as submitted, and made a motion to introduce the ordinance bill.

Barbara Hunt, 2475 S. Walnut, spoke in support of the issue.

Club One Casino Manager Jeremy Newman, City Manager Souza and City Attorney Montoy responded to questions of Councilmember Boyajian and President Dages relative to what games were being looked at and why the police chief might exclude some, how one person could prohibit games that are approved by the State, need for the City Council to make the decision/determine what is best for the city, and if the Council could override the police chief's decision. Councilmember Duncan seconded the motion, thanked Councilmember Sterling for bringing this matter forth, and stated it is a good thing when regulatory burdens on businesses are lessened and added this would get the City Council out of micro-managing. Mr. Newman and Officer Danisi responded to questions of Councilmember Westerlund relative to what games Club One wanted to add, wagering limits, if games regulated by the State had limits, if State-approved games were allowed at Indian casinos, buy-in limits, number of times Club One has made a request to add games and if any games have been denied by Council, maximum limits, and types of things/issues the police department would look at to prohibit games.

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Bill No. B-40 introduced before the Council and laid over, by the following vote:

| | |
|----------|---|
| Ayes : | Calhoun, Duncan, Perea, Sterling, Westerlund, Dages |
| Noes : | Boyajian |
| Absent : | None |

(10:30 A.M.) HEARING ON COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 88, FINAL TRACT MAP NO. 5224

1. RESOLUTION NO. 2005-131 - DIRECTING PREPARATION OF A MODIFIED REPORT ANALYZING THE IMPACT OF

PROPOSED CHANGE OF SERVICES AND INCREASE IN PROBABLE SPECIAL TAX FOR PROPOSED MODIFICATION TO R.I. NO. 2005-88 (TO ANNEX TRACT 5224 AS ANNEXATION NO. 88 AND TO AUTHORIZE LEVY OF A SPECIAL TAX)

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2. RESOLUTION NO. 2005-132 - RECEIVING AND APPROVING THE MODIFIED DISTRICT REPORT AND MODIFYING R.I. 2005-88

3. RESOLUTION NO. 2005-133 - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX

4. RESOLUTION NO. 2005-134 - CALLING A SPECIAL MAILED-BALLOT ELECTION

5. RESOLUTION NO. 2005-135 - DECLARING ELECTION RESULTS

6. BILL NO. B-41 - ORDINANCE NO. 2005-42 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS

President Dages announced the time had arrived to consider the issue and opened the hearing. Assistant Public Works Director Kirn reviewed the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, questioned what is done with the taxes collected.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Councilmember Calhoun stated he would continue to oppose these CFDs as staff had not yet submitted a report on the status of all districts as promised last year.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Resolution Nos. 2005-131, 2005-132, 2005-133, 2005-134 and 2005-135 hereby adopted, and the above entitled Bill No. B-41 adopted as Ordinance No. 2005-42, by the following vote:

| | | |
|--------|---|--|
| Ayes | : | Boyajian, Duncan, Perea, Sterling, Westerlund, Dages |
| Noes | : | Calhoun |
| Absent | : | None |

(10:35 A.M.) TEFRA HEARING AS REQUIRED BY THE INTERNAL REVENUE CODE OF 1986 AND TO CONSIDER THE PROPOSED ISSUANCE OF INDUSTRIAL DEVELOPMENT BONDS BY THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY FOR THE PURPOSE OF FINANCING THE CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF TEMPERING AND DRIP-DRY ROOMS OWNED AND OPERATED BY BUSSETO FOODS, INC., AND CERTAIN OTHER MATTERS RELATED THERETO

1. RESOLUTION - APPROVING THE ISSUANCE OF BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4 MILLION FOR BUSSETO FOODS, INC.

President Dages announced the time had arrived to consider the issue and opened the hearing. Councilmember Sterling advised Busseto Foods was requesting the hearing be continued to May 3rd and made a motion to that effect.

Barbara Hunt, 2475 S. Walnut, spoke in opposition to the continuance.

Upon call, no one else wished to be heard and President Dages closed the hearing.

An unidentified staff member advised the hearing time would be 4:00 p.m., and Councilmember Sterling clarified the hearing was being continued so the community could tour the plant and see what the company was doing.

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Tefra Hearing to issue industrial development bonds for Busseto Foods continued to May 3, 2005, at 4:00 p.m., by the following vote:

| | | |
|------|---|---|
| Ayes | : | Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages |
| Noes | : | None |

Absent : None

RECESS - 10:41 A.M. - 11:00 A.M.

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4/19/05

(11:00 A.M. #1) HEARING TO CONSIDER ACQUISITION OF PERMANENT EASEMENTS AND RIGHTS OF WAY FROM PROPERTY LOCATED AT THE INTERSECTION OF BLACKSTONE AND BULLARD AVENUES AND AUTHORIZE EMINENT DOMAIN PROCEEDINGS

1. RESOLUTION NO. 2005-136 - DETERMINING THAT PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF PERMANENT EASEMENTS AND RIGHTS OF WAY FOR PUBLIC STREET PURPOSES AND TEMPORARY CONSTRUCTION EASEMENTS AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR PROPERTY LOCATED AT THE INTERSECTION OF BLACKSTONE AND BULLARD AVENUES: APN 407-154-08 OWNED BY SOUTHLAND CORPORATION, 7-ELEVEN INC., APN 409-191-09 AND 409-191-20 OWNED BY BAHMAN IGHANI, APN 418-050-32 OWNED BY MARK TOPOOZIAN, AND APN418-050-62 OWNED BY TARGET CORPORATION

President Dages announced the time had arrived to consider the issue and opened the hearing. Supervising Real Estate Agent Balch reviewed the issue and findings to be made, all as contained in the staff report as submitted, and recommended approval.

Barbara Hunt, 2475 S. Walnut, spoke in opposition to eminent domain.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Mr. Balch and Councilmember Duncan responded to questions of Councilmember Boyajian relative to Parcel 2's signage loss, if that loss would be detrimental to the business, if the business found an alternate place for the sign, the roof overhang on Parcel 7, Parcel 4 and loss of access to storage tanks, and traffic congestion at the intersection and if the improvement project would alleviate gridlock. Councilmember Westerlund pointed out the site plan map was not accurately labeled in Exhibit D of Parcel 7 and stated the same was true for Exhibit D/Parcel 8, with Mr. Balch concurring and advising staff would correct the exhibits.

On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, **RESOLVED**, the above entitled Resolution No. 2005-136 hereby adopted, with Exhibit D to be corrected for Parcels 7 and 8, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

(11:00 A.M. #2) CONSIDER MATTERS REGARDING THE OPHELIA PROPERTY LOCATED AT 800 AND 808 "M" STREET

1. APPROVE (1) THE PURCHASE OF LAND FROM THE OPHELIA FAMILY, L.P. AND DIANE OPHELIA FOR THE PRICE OF \$3 MILLION

2. AUTHORIZE THE CITY MANAGER TO SIGN ALL PURCHASE-RELATED DOCUMENTS

3. RESOLUTION - 78TH AMENDMENT TO AAR 2004-209 APPROPRIATING \$3,120,000 IN ANTICIPATED BOND PROCEEDS FOR THE PURCHASE OF THE PROPERTY (*FAILED due to the need for 5 affirmative votes*)

4. RESOLUTION NO. 2005-137 - DECLARING THE OFFICIAL INTENT OF THE CITY OF FRESNO TO REIMBURSE CERTAIN EXPENDITURES FROM PROCEEDS OF INDEBTEDNESS, AS AMENDED

Mayor Autry gave an overview of the issue and spoke in support, and to the importance of, the hotel proposed for the site, elaborating at length on related issues including what a 4-star hotel would mean to the city (**4 - 0**), the decision to build a hotel being made back when the Convention Center was built, the need for a hotel attached to the Convention Center for competition, this being a unique moment in time to take advantage of this, how the project would fully support the debt payment, and job creation in the enterprise zone. Upon request of Councilmember Westerlund for clarification, City Manager Souza confirmed only the purchase of the property was at issue this date and not approval of a hotel, with Mayor Autry adding and clarifying he was supporting the acquisition of the property with the expressed intent that a hotel be built there as planned.

Mr. Souza spoke to the history of the parcel and the intent to have a hotel there, clarified how the \$3 million purchase price was

reached, advised staff would pursuing dual tracks on the hotel -- both public and private -- if approved, and advised the reimbursement resolution (#4) was being amended because staff was committed to a dual track process and read the language changes (in the 1st and 3rd "whereas" paragraphs) into the record.

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Speaking to the issue were: Paul Turner, Fresno Hotel-Motel Association, who read a letter from the Association into the record opposing the use of public funds to purchase land and construct and operate a new convention-type hotel facility in downtown; Steve Kline, Radisson Hotel General Manager, opposed, and who spoke to the need for a market analysis; Ellington Jordan, consultant, support; Barbara Hunt, 2475 S. Walnut, support; Steve Newvine, Chief Executive Officer of the Greater Area Chamber of Commerce, who advised the Chamber had not taken a formal position on the hotel but was supportive of gathering information during the process; Bill Overfelt, Convention Center General Manager, support; and Roger Storey, hotel broker, who stated the concept was worthy but due-diligence was lacking and spoke to the need to practice good economics.

President Dages spoke in opposition to the hotel at length and presented questions/comments/concerns relative to the \$3 million purchase price, if there was a charge for putting a bond together, the currently vacant hotel (old Hilton/Howard Johnson/Doubletree hotel) and why that is not being pursued, if a builder would be attracted if there was no vacant hotel downtown, concern with Forbes Magazine's articles on St. Louis' non-successful Renaissance Hotel and experts with their rosy predictions, staff's comment that this project will make ends meet and past city projects that failed, if Mr. Souza and Assistant City Manager Quinto as CPAs would recommend this project/investment to their clients, why there has been no interest in the past by the hotel industry if this project is doable, concern with paying 1/3 more than the land appraisal with "nothing more than a broad assumption that this will fly", and his support for the private sector building the hotel with some monetary assistance from the City versus the City building, owning and being burdened with a 30-year bond payment that it may or may not be able to make. Mr. Souza and Ms. Quinto responded to questions and comments throughout.

Upon question of Councilmember Duncan, Mr. Souza clarified an independent market analysis was conducted on the potential for a downtown hotel, the results of that market analysis were favorable enough to move forward to the next level, at issue this date was the purchase of the land and options would come later, and the goal was to build a hotel on the site consistent with the 2010 Vision. Councilmember Duncan stated his support for staff's recommendation, **(5 - 0)** stressed if Council does not take advantage of this opportunity the city will never get a downtown hotel and a dagger will be put in the heart of downtown revitalization, urged approval stating this was a good business decision, and made a motion to approve staff's recommendation, which motion was seconded and later acted upon.

Lengthy discussion continued. Councilmember Boyajian spoke in support of the motion, stated he hoped staff would look at all alternatives and be cognizant of why the old Hilton hotel was vacant, clarified this would be a convention hotel, stressed Fresno was going to be a destination place with the other major downtown projects, pointed out there would be competition with proposed the Save Mart Arena hotel, and stated Fresno was the number one convention destination at one time and needed to get back to being number one, a good opportunity was being presented here, and stressed the importance of investing in our city. Mr. Souza, City Attorney Montoy and Ms. Quinto responded to questions/comments/concerns of Councilmember Sterling relative to the resolution changes, if giving the land to a developer would be considered a gift of public funds, if approval would bind the city to bonding, bonding limits and if approval would jeopardize the Forest City and Chinatown projects, the failure of the St. Louis hotel and if staff had examples of others that worked, clarification of her support for a downtown hotel but concern with bonding children into perpetual debt and with the in-lieu fee issue, if restoration of the Hotel Fresno and the vacant hotel was an alternative to a new one, potential developers who might respond, support for a public authority model and opposition to bonding this project, concern with the lack of a guarantee that this project will not be bonded, and if the resolution could be further amended to include assurance the city will not put itself in a position where it has to bond. Councilmember Westerlund emphasized the hotel was not at issue this date, stated the sole issue was whether or not to invest in property that should have been bought years ago and he was willing to support that to have options available, spoke briefly to the need to back up the vision with economics and to his concern with the vacant hotel issue, and stated if this does not work out with the private sector he would have no problem with holding onto the property for a period of time. Ms. Souza and Ms. Quinto responded briefly to questions of Councilmember Boyajian on interest rates and clarified issues relative to TRANS.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, **RESOLVED**, (1) the purchase of land referred to as 800-808 "M" Street for \$3 million hereby approved, (2) the City Manager authorized to sign all purchase-related documents, (3) the above entitled Resolution appropriating \$3,120,000 to purchase the property *failed* due to the need for 5 affirmative votes, and (4) the above entitled Resolution No. 2005-137 hereby adopted, *as amended and verbalized by the city manager*, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Westerlund
 Noes : Perea, Sterling, Dages
 Absent : None

Brief discussion ensued on the appropriation resolution (#3) failing and what options Council had, whereupon Ms. Montoy recommended Council take a break so staff could consider the matter and return with a modification after lunch for reconsideration.

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4/19/05

LUNCH RECESS - 12:43 P.M. - 2:30 P.M.

(11:00 A.M. #2) CONTINUED CONSIDERATION OF MATTERS REGARDING THE OPHELIA PROPERTY LOCATED AT 800 AND 808 "M" STREET

1. APPROVE THE PURCHASE OF LAND FROM THE OPHELIA FAMILY, L.P. AND DIANE OPHELIA FOR THE PRICE OF \$3 MILLION
2. AUTHORIZE THE CITY MANAGER TO SIGN ALL PURCHASE-RELATED DOCUMENTS
3. RESOLUTION - 78TH AMENDMENT TO AAR 2004-209 BY APPROPRIATING \$3,120,000 IN ANTICIPATED BOND PROCEEDS FOR THE PURCHASE OF THE PROPERTY *(Failed due to the need for 5 affirmative votes)*
4. **RESOLUTION NO. 2005-137** - DECLARING THE OFFICIAL INTENT OF THE CITY OF FRESNO TO REIMBURSE CERTAIN EXPENDITURES FROM PROCEEDS OF INDEBTEDNESS

Proceedings continued. A motion and second was made to reconsider item #1 only.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, Item #1 approved for reconsideration, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Sterling, Westerlund
 Noes : Perea, Dages
 Absent : None

Councilmember Duncan stated he had an alternative for Paragraph #9 of the purchase agreement and read it into the record, and made a motion to approve. Upon question of Councilmember Sterling and President Dages, City Attorney Montoy clarified the agreement would have no force and effect if there is no appropriation of money by July 31st, and further clarified staff could pursue the purchase of land but escrow could not close without Council appropriating the money that is necessary for the purchase.

(6 - 0) On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the purchase of land from the Ophelia Family, L.P. and Diane Ophelia for the price of \$3 million hereby approved, *as amended*, with an alternative for Paragraph #9 as follows: "9. The City's budgeting and appropriation of the purchase price shall be a condition precedent to the City's obligation to purchase. If the budgeting and appropriation is not effected on or before July 31, 2005, the Agreement shall have no force and effect.", by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Westerlund
 Noes : Perea, Sterling, Dages
 Absent : None

Upon question of Mr. Souza, Ms. Montoy clarified Council's previous action on #2 stood.

(2:00 P.M. #1) CONTESTED CONSENT CALENDAR:

(1-F) CONSIDER THE PROPOSED DAKOTA-HAYES NO. 2 REORGANIZATION AND APPROVAL TO FILE WITH LAFCO FOR THE DETACHMENT OF CERTAIN TERRITORY FROM THE NORTH CENTRAL FIRE PROTECTION DISTRICT AND THE KINGS RIVER CONSERVATION DISTRICT AND ANNEXATION OF THE SAME TERRITORY TO THE CITY OF FRESNO (PROPERTY LOCATED IN DISTRICT 1)

1. AFFIRMING CITY COUNCIL ACTION OF NOVEMBER 30, 2004, ADOPTING E.A. NO. A-04-07/R-04-18/T-5316 DATED OCTOBER 12, 2004, FINDING OF MITIGATED NEGATIVE DECLARATION
2. **RESOLUTION NO. 2005-138** - APPLYING TO LAFCO IN THE MATTER OF THE PROPOSED DAKOTA-HAYES NO. 2 REORGANIZATION

Councilmember Westerlund advised his questions had been answered by staff and it was too late to do anything about the change in density which had been his concern.

145-149

4/19/05

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the 11/30/04, action of the City Council adopting a finding of a Mitigated Negative Declaration for E.A. No. A-04-07/R-04-18/T-5316 dated 10/12/04, hereby affirmed, and the above entitled Resolution No. 2005-138 hereby adopted, by the following vote:

Ayes : Calhoun, Duncan, Perea, Sterling, Dages
 Noes : Boyajian, Westerlund
 Absent : None

(1-J) APPROVE A LEASE AGREEMENT WITH GRANTLAND AVENUE LLC FOR TEMPORARY FIRE STATION 18 LOCATED AT 5938 N. LA VENTANA AVENUE

Councilmember Duncan noted Fire Station 12 has been operating as a temporary fire station 34 years now and upon his question and request for assurance City Manager Souza confirmed fire station 18 was temporary.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, a lease agreement with Grantland Avenue, LLC, for temporary Fire Station 18 hereby approved for a five year period, with the option for a one-year extension, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

(1-M) BILL NO. B-42 - ADOPTING CHANGES AND ADDITIONS TO THE OFFICIAL LIST OF TRUCK ROUTES FOR THE MOVEMENT OF VEHICLES EXCEEDING A MAXIMUM GROSS WEIGHT OF 12,000 POUNDS PURSUANT TO FMC SECTION 10-1303

Councilmember Boyajian noted a lot of truck routes were involved and he had been assured by staff that each council member had reviewed the list and approved it.

On motion of Councilmember Boyajian, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Bill No. B-42 introduced before the Council and laid over, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

(2:00 P.M. #2) CLOSED SESSION:

(A) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:

1. INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF) - BASIC UNIT
2. INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF) - MANAGEMENT UNIT
3. INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 39
4. FRESNO CITY EMPLOYEES' ASSOCIATION (FCEA)

5. FRESNO POLICE OFFICERS' ASSOCIATION (FPOA) MANAGEMENT UNIT

(B) REDEVELOPMENT AGENCY CLOSED SESSION - PUBLIC EMPLOYEE APPOINTMENT/EMPLOYMENT - TITLE: APPOINTMENT OF EXECUTIVE DIRECTOR - COUNCILMEMBER CALHOUN

The City Council met in regular closed session and in joint closed session with the RDA in Room 2125 at the hour of 2:45 p.m. to consider the above matters and reconvened in regular open session at 3:23 p.m.

145-150

4/19/05

(3:00 P.M.) HEARING TO CONSIDER AN APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF VESTING TENTATIVE TRACT MAP NO. 5298/UGM FILED BY FRESPORT PARTNERS, PROPOSING A 37-LOT INDUSTRIAL/COMMERCIAL SUBDIVISION ON THE SOUTHWEST SIDE OF N. PARKWAY DRIVE AND FREEWAY 99, NORTH OF THE HERNDON CANAL AND EAST OF THE PLANNED ALIGNMENT OF N. ISLAND WATERPARK DRIVE

1. RESOLUTION NO. 2005-139 - APPROVING VESTING TENTATIVE TRACT MAP NO. T-5298/UGM AND DENYING THE APPEAL, INCLUDING THE FEE AGREEMENT REACHED BETWEEN THE APPLICANT AND CALTRANS

President Dages announced the time had arrived to consider the issue and opened the hearing. Planner Brock gave an overview of the issue as contained in the staff report as submitted and recommended the planning commission's action be affirmed.

Speaking to the issue were: Dirk Poeschel, on behalf of Fresport Partners, who advised an agreement had been reached with Caltrans and the \$78,916 fee they were requesting would be divided and paid equally by the 37 lots and added the money generated by the subdivision would be dedicated to improvements on Island Parkway Drive; and Moses Stites, Caltrans, who stated Mr. Poeschel was correct, gave credit to public works staff, and spoke further to the agreement reached.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Upon question of Councilmember Calhoun, City Attorney Montoy and Ms. Brock stated the agreement fell within the general parameters of the city's negotiations with Caltrans and explained. Assistant Public Works Director Kirm stated the agreement was a win-win situation and explained his understanding of the agreement. Upon further question, Ms. Montoy stated the agreement would be drafted in writing so there is no disagreement down the line. A motion was made to approve staff's recommendation including the agreement reached by the applicant and Caltrans. Mr. Poeschel clarified they would not be subject to the future study and they were setting the fee this date.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2005-139 hereby adopted, including the fee agreement reached between Fresport Partners and Caltrans, by the following vote:

| | |
|----------|---|
| Ayes : | Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages |
| Noes : | None |
| Absent : | None |

(3:30 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council recessed at 3:40 p.m. and convened in joint session with the Redevelopment Agency.

APPROVE AGENCY MINUTES OF MARCH 15, 2005

On motion of Councilmember Westerlund, seconded by President Dages, duly carried, RESOLVED, the Agency minutes of March 15, 2005, approved as submitted.

("B") COUNCIL RECEIPT OF THE ANNUAL REPORT OF THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO FOR FISCAL YEAR 2003-2004 (COUNCIL ACTION)

Director Murphey requested the matter be continued to May 3rd due to a misprint in the packet that was distributed last week and advised no deadlines would be missed with a delay.

On motion of Chair Boyajian, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Item "B" continued to May 3, 2005, at 4:45 p.m., by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Westerlund, Boyajian
Noes : None
Absent : None

145-151

4/19/05

("A") **AGENCY RESOLUTION NO. 1660** - AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE THE ASSIGNMENT OF RIGHT TO RECEIVE REIMBURSEMENT FROM THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT (FMFCD), MASTER PLAN FACILITIES AGREEMENT BETWEEN THE AGENCY, THE FMFCD, AND THE STRAVINSKI DEVELOPMENT GROUP (SDG) FOR THE REIMBURSEMENT OF FLOOD CONTROL FEES TO THE AGENCY RELATIVE TO THE INSTALLATION OF MASTER DRAINAGE FACILITIES FROM ELM AND VINE AVENUES TO DRAINAGE BASIN "KK" LOCATED EAST OF ELM AVENUE WITHIN THE SOUTH FRESNO REDEVELOPMENT PROJECT AREA (AGENCY ACTION)

Director Murphey reviewed the issue as contained in the staff report as submitted and recommended approval.

On motion of Councilmember Duncan, seconded by President Dages, duly carried, RESOLVED, the above entitled Agency Resolution No. 1660 hereby adopted, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Westerlund, Boyajian
Noes : None
Absent : None

ADJOURNMENT

There being no further business to bring before the joint bodies, the hour of 3:44 p.m. having arrived and hearing no objections, Chair Boyajian declared the meeting adjourned.

APPROVED on the ____3rd____day of May, 2005.

_____/s/_____
Tom Boyajian, Agency Chair

ATTEST:_____/s/_____
Yolanda Salazar, Assistant City Clerk

145-152

4/19/05